

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CRIMINAL NO. 1:06CR10**

**UNITED STATES OF AMERICA**

**VS.**

**MICHAEL LEE DRAKE**

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**ORDER**

**THIS MATTER** came on for a conflict of interest hearing before the Court on September 2, 2008, pursuant to remand from the Fourth Circuit Court of Appeals. **See Order, filed February 22, 2008.**

At the hearing, the Defendant was present with his appointed appellate counsel, H. Monroe Whitesides, Jr., along with counsel for the Government. The Court explained to the Defendant the circumstances surrounding a potential conflict of interest as addressed in the Circuit's remand and his right to have another attorney represent him on appeal if he so desired. The Defendant advised the Court that he fully understood the potential for conflict and his rights to the appointment of new counsel, if

he so chose. He further advised the Court, however, that it was his wish to keep Mr. Whitesides as his appellate counsel.

Based on the Court's observations of the Defendant and his representations to the Court, the Court finds the Defendant has knowingly waived any conflict of interest between himself and his present attorney Mr. Whitesides, and has represented to the Court in good faith that he wishes to keep Mr. Whitesides as his appellate counsel.

**IT IS, THEREFORE, ORDERED** that, the Court having conducted the hearing as directed by the remand, the Clerk is directed to transmit this order to the Fourth Circuit forthwith.

Signed: September 3, 2008

A handwritten signature in black ink, appearing to read "L. H. Thornburg", written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

